

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 21, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2439

Introduced by Assembly Member Nazarian

February 19, 2016

An act to add Section 120992 to the Health and Safety Code, relating to HIV testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Nazarian. HIV testing.

Existing law requires that every patient who has blood drawn at a primary care clinic, as defined, and who has consented to the test to be offered an HIV test that is consistent with the United States Preventive Services Task Force recommendations for screening for HIV infection. Existing law specifies the manner in which the results of that test are provided.

This bill would create a pilot project, administered by the State Department of Public Health, to assess and make recommendations regarding the effectiveness of the routine offering of an HIV test in the emergency department of a hospital. The bill would require the department to select 4 hospitals, ~~as provided,~~ *or fewer under specified circumstances*, that have emergency departments to voluntarily

participate in the pilot project. The bill would require the participating hospitals to offer an HIV test to any patient in the hospital emergency department, as provided, to collect specified information, and to report the information to the department. The pilot project would commence on March 1, 2017, and end on February 28, 2019. The bill would require the department, by ~~July~~ December 1, 2019, to complete a report to the Legislature on the findings of the ~~4~~ hospitals in the pilot project and make recommendations about routine HIV testing in hospital emergency departments.

This bill would require that these provisions be implemented only to the extent that the department identifies available funding for the purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 120992 is added to the Health and Safety
2 Code, to read:
3 120992. (a) There is hereby created a pilot project, to be
4 administered by the department, in order to assess and make
5 recommendations regarding the effectiveness of the routine offering
6 of an HIV test in the emergency department of a hospital.
7 (b) The department shall select four hospitals that have
8 emergency departments to voluntarily participate in the pilot
9 project. *The department may select fewer hospitals if an insufficient*
10 *number of hospitals express willingness to voluntarily participate.*
11 (1) Two of the hospitals shall be selected from large urban areas.
12 (2) One hospital shall be selected from a small urban or suburban
13 area.
14 (3) One hospital shall be selected from a rural area.
15 (c) Each hospital in the pilot project shall offer an HIV test to
16 any patient in the hospital emergency department who has
17 consented to the HIV test pursuant to Section 120990. The
18 emergency department shall comply with subdivision (h) of Section
19 120990 and may choose to comply either by using emergency
20 department or other hospital personnel or engaging the services
21 of an HIV organization that has experience in prevention
22 counseling for persons at risk for HIV.

1 (d) (1) A hospital in the pilot project shall not offer a test to
2 any person who is being treated for a life-threatening emergency
3 or who lacks the capacity to consent to an HIV test.

4 (2) If an emergency department physician at a hospital in the
5 pilot project determines that a patient is in significant pain or
6 distress, including psychological distress, the hospital shall not
7 offer an HIV test to the patient. Once an emergency department
8 physician determines that the patient has stabilized and is no longer
9 in significant pain or distress, including psychological distress, the
10 hospital shall offer an HIV test to the patient.

11 (e) A hospital in the pilot project shall offer HIV tests to
12 individuals 15 to 65 years of age, inclusive, pursuant to the United
13 States Preventive Services Task Force recommendations. In order
14 to protect the confidentiality and privacy interests of minors, the
15 hospital shall not offer HIV tests to individuals 15 to 17 years of
16 age, inclusive, in the presence of their parent or legal guardian.

17 (f) A hospital in the pilot project shall be authorized to charge
18 a patient for the cost of the HIV testing.

19 (g) A hospital in the pilot project shall be directed by the
20 ~~department~~ department, in a form, manner, and timeframe
21 determined by the department, to collect and report data on the
22 following topics:

23 (1) The frequency of HIV test offers.

24 (2) The frequency of consent or nonconsent to an HIV test and
25 any reasons given by the patient for the consent or the nonconsent.

26 (3) The time taken to offer an HIV test and secure consent from
27 a patient and the time taken to provide information and counseling
28 pursuant to subdivision (h) of Section 120990.

29 (4) The aggregate HIV positivity rate.

30 (5) The frequency with which patients agree to participate in a
31 session to receive information and counseling pursuant to
32 subdivision (h) of Section 120990 and the reasons that patients
33 give for refusing to participate.

34 (6) The frequency of patients leaving the emergency department
35 without receiving their test results.

36 (h) A hospital in the pilot project shall provide information to
37 the department regarding its practices and protocols for
38 implementing the offer of an HIV test and the required followup
39 to the test, as well as an assessment of the effectiveness of those
40 practices and protocols.

1 (i) (1) The pilot project shall commence on March 1, 2017, and
2 end on February 28, 2019.

3 (2) By ~~July~~ *December* 1, 2019, the department shall complete
4 a report to the Legislature on the findings of the ~~four~~ hospitals in
5 the pilot project and make recommendations about routine HIV
6 testing in hospital emergency departments. In preparing the report
7 to the Legislature, the department shall solicit input from a broad
8 range of HIV testing and hospital stakeholders.

9 (j) (1) The requirement for submitting a report imposed under
10 paragraph (2) of subdivision (i) is inoperative on ~~July~~ *December*
11 1, 2023, pursuant to Section 10231.5 of the Government Code.

12 (2) A report submitted pursuant to paragraph (2) of subdivision
13 (i) shall be submitted in compliance with Section 9795 of the
14 Government Code.

15 (k) For purposes of this section, “hospital” means a general
16 acute care hospital as defined in subdivision (a) of Section 1250.

17 (l) *This section shall be implemented only to the extent that the*
18 *department identifies available funding for the purposes of this*
19 *section.* The department may seek or use private funding to cover
20 the costs of administering the pilot project.